

1 A. Yes.

2 Q. And would all that -- strike that. Let me start
3 over. Would it be accurate that the information you got from
4 the Scott's Econo Lodge clerk was all true? That it was
5 Ms. Shurney who did appear, who was there for the
6 reservation, and had signed and used their license; that was
7 all accurate and information that was provided? Truthful
8 information?

9 A. Yes.

10 Q. Would it also be true that the credit card was, I
11 guess, illegally utilized by an individual making that
12 reservation, whoever it was?

13 MR. ADAMS: Objection.

14 MR. HUTTON: What's your objection?

15 MR. ADAMS: It assumes facts not in evidence.

16 MR. HUTTON: It's already in evidence.

17 MR. ADAMS: No.

18 MR. HUTTON: It's going to be in evidence. If you
19 don't think that Officer Hurley and the victim's
20 testimony is not coming into evidence, and the bank
21 records that indicate that this card was used
22 improperly -- there's no question that it was
23 illegally used.

24 MR. ADAMS: One of the many possibilities that we
25 can discuss is the fact that when the reservation

1 was made, the person who took the reservation, made
2 a mistake regarding a single digit of the credit
3 card.

4 MR. HUTTON: Oh, yeah. And they're all from
5 Cleveland, too. That's a complete fantasy.

6 Q. I was asking about: Would it also be true, to your
7 knowledge, that the reservation was made on a stolen credit
8 card?

9 A. Yes.

10 Q. And when you talked to Ms. Shurney, she indicated
11 that that information from making the reservation came from a
12 person known as Tracey Smith; is that right?

13 A. What information?

14 Q. The credit card number, the account number.

15 A. Yes.

16 Q. By doing that, she acknowledged that she knew the
17 person and was familiar with the person who gave the false
18 information to the Scott's Econo Lodge about the MasterCard?

19 MR. ADAMS: Objection again to the form of the
20 question regarding the use of the alleged stolen
21 credit card.

22 Q. She was aware of the person who made that
23 reservation?

24 A. Yes.

25 Q. She identified Ms. Smith once as her sister; is that

1 correct?

2 A. Correct.

3 Q. Once as a cousin, I believe?

4 A. I don't remember that.

5 Q. I think that's in the pleadings. And in this record
6 here I was looking at from the Pennsylvania State Police, she
7 ultimately identified her as a friend; is that right?

8 A. Correct.

9 Q. Now, you subsequently instituted, I guess, some
10 investigation into trying to track down this individual that
11 Ms. Tanielle Shurney identifies as Tracey Smith; is that
12 right?

13 A. Yes.

14 Q. Would it be fair to say that, other than the person
15 who appeared to sign in for the room, Tanielle Shurney, you
16 knew of no other individual who, in fact, was going to
17 utilize those services on that credit card?

18 A. At the time, correct.

19 Q. And this woman identified as Tracey Smith did not
20 identify or sign in to the clerk at the Econo Lodge; would
21 that be fair?

22 A. Correct.

23 Q. The name of the reservation wasn't Tracey Smith?

24 A. Correct.

25 Q. And the only information you were able to determine

1 from your investigation regarding the existence of a woman
2 known as Tracey Smith is the information that Ms. Shurney
3 provided?

4 A. Correct.

5 Q. And that information proved to be unreliable?

6 A. Unreliable to the point where I couldn't talk to the
7 individual, no.

8 Q. She gave you an address, right?

9 A. Correct.

10 Q. And you contacted the Cleveland Police Department to
11 track down and locate Tracey Smith, right?

12 A. Correct.

13 Q. At that address she provided?

14 A. Correct.

15 Q. Her sister, friend, or cousin. And it turned out to
16 be accurate or inaccurate?

17 A. Not as accurate -- like I said, when I called
18 Cleveland, they can run the house -- I said, I have a Tracey
19 Smith -- I don't have any other information, other than
20 Tracey Smith, at this address, and then they run the address,
21 and they do it as a single unit -- whatever their means, but
22 they could not confirm a Tracey Smith or that address for
23 that matter.

24 Q. Has Ms. Shurney ever explained to you or anyone at
25 the Pennsylvania State Police how it was that that

1 MasterCard, that number that had been stolen from
2 Ms. Traylor, ends up on her reservation?

3 MR. ADAMS: Objection. Assumes facts not in
4 evidence.

5 Q. Did she ever give you an explanation as to that,
6 Trooper?

7 A. To the best of my recollection, when I was doing the
8 interview, she said something about wanting to go there,
9 didn't have the money, her friend Tracey Smith, well, I'll
10 just put it on my credit card. And that's how, I guess, the
11 snowball rolled in her --

12 Q. That's what Ms. Shurney told you, that somebody
13 known as Tracey Smith, that has never been able to be
14 identified or located; is that fair?

15 A. Correct.

16 Q. And the only person that knows about Tracey Smith is
17 Tanielle Shurney?

18 A. Correct.

19 Q. Officer, you agree that a crime has been committed
20 here?

21 A. Correct.

22 Q. And the question is, who did it; is that correct?

23 A. Correct.

24 Q. And at the time that the arrest was made and the
25 prosecution was instituted against Tanielle Shurney, you

1 reasonably believed that you had sufficient evidence to
2 charge Ms. Shurney with the crimes that were charged; is that
3 correct?

4 A. Correct.

5 Q. And that was based on the information that you had
6 learned from the Academy on the preparation of criminal
7 complaints?

8 A. Correct.

9 Q. And the information you had from, I guess, your
10 coach --

11 A. Correct.

12 Q. -- Trooper Szymanski?

13 A. Correct.

14 Q. And from the assistance you got from the other
15 trooper at the barracks?

16 A. Correct.

17 Q. And you didn't do this with any intent to personally
18 act with malice or intent to deprive anyone of civil rights;
19 is that fair?

20 A. True.

21 Q. And that you were simply trying to enforce and do
22 the jobs which you've assumed as the responsibilities of a
23 trooper with the Pennsylvania State Police?

24 A. Correct.

25 Q. That was your only intent here?

1 A. Correct.

2 Q. Would it be fair that the Affidavit of Probable
3 Cause was one that you signed off on? It wasn't signed off
4 by anyone from Scott's Econo Lodge or from Splash Lagoon?

5 A. I signed the Affidavit.

6 Q. Would it be fair, though, that the decision to make
7 the arrest was one of the Pennsylvania State Police and not
8 of the Scott's Econo Lodge or the Splash Lagoon?

9 A. Correct.

10 Q. Since this matter's been filed, has there been any
11 further attempt to try to locate this individual that
12 Ms. Shurney claims placed that illegal reservation with
13 Scott's Econo Lodge?

14 A. Since the case has been terminated?

15 Q. Yes. Well, see this case --

16 A. Or after the investigation?

17 Q. This case sprang up, and I was wondering, since this
18 matter is now in litigation, has there been any further
19 effort on the part of the State Police, or its investigators,
20 to see if this individual named Tracey Smith, in fact, does
21 exist or whether she's a fantasy or creation by Ms. Shurney
22 to disguise a crime?

23 A. It's impossible.

24 Q. You're not aware of her ever being identified then?
25 Tracey Smith.

1 A. Hum-um.

2 MR. BAX: You have to say yes or no.

3 THE WITNESS: I'm sorry?

4 MR. BAX: You have to say yes or no.

5 A. Can you restate the question, then. I guess I said
6 uh-huh, so I mean, no.

7 Q. As of the time of the arrest and prosecution
8 everything pointed to Ms. Shurney?

9 A. Correct.

10 MR. HUTTON: That's all the questions I have.

11 MS. MALONE: I just have a few.

12

13 CROSS-EXAMINATION

14 BY MS. MALONE:

15

16 Q. My name is Susan Malone, and I'm here on behalf of
17 the Office of Attorney General representing Trooper Pierce.

18 During questioning by Mr. Adams you stated that
19 there are certain things that you might have done differently
20 now as a result of your lack of experience.

21 A. Correct.

22 Q. What are you referring to when you talk about your
23 lack of experience?

24 A. As far as this incident?

25 Q. Correct.

1 A. Well, you only get so much training at the Academy,
2 and then, you know, obviously most of it is, I guess, the
3 on-the-job training. And I guess you develop your skills and
4 means and the advice from what you see in the barracks and
5 depending on how you're going to handle your incidents, but
6 the bottom line is, as far as any important cases, the
7 interview process. Lack of experience there.

8 Q. You weren't referring in any way to the decision to
9 make the arrest or the decision that there was sufficient
10 probable cause for the arrest, were you?

11 A. No.

12 Q. So you were referring to your interviewing
13 techniques?

14 A. Correct.

15 Q. And if you were to do this today, what would you you
16 have done differently as far as your interviewing techniques?

17 A. Well, I think in the interviewing process I might
18 have spent like 15 minutes with her. I can only give the
19 information -- I guess, I don't know. There's just different
20 interrogation tactics you can use. She obviously signed her
21 rights and waivers to counsel. I should have took her
22 back -- instead of having her in patrol, there's a lot of
23 movement going on with change of shift -- one-on-one. And
24 like said, hindsight is 20/20, if I would have done it today,
25 it definitely would have been different. But I guess lack of

1 experience as far as interview and interrogation.

2 Q. And if you had had more experience and done a better
3 job, do you feel that the charges would have been held over
4 by the magistrate?

5 A. Yes.

6 MR. ADAMS: Objection. Calls for speculation on
7 the part of the witness.

8 Q. Is there any doubt in your mind that Ms. Shurney
9 was, in fact, guilty of the crimes for which she was charged?

10 A. No, there was no doubt.

11 MS. MALONE: That's all I have.

12

13 REDIRECT EXAMINATION

14 BY MR. ADAMS:

15

16 Q. What evidence do you have as of today that would
17 allow you to conclude that Ms. Shurney is guilty of either of
18 the charges that were filed in this case?

19 MR. BAX: I'm going to object to that question.

20 That was asked and answered on your examination of
21 this witness.

22 MR. ADAMS: This is in response to the question
23 that was just asked by the Attorney General.

24 MR. HUTTON: I'm going to object because it's
25 overly broad. You're asking for this fellow to

1 give a complete narrative and restate all the
2 testimony that he's given -- to resummarize that.
3 I think it's overly broad. I think you can ask him
4 particular things as to what led him up to that.

5 Q. Do you understand the question?

6 A. Yes.

7 Q. What evidence do you have today?

8 A. Against Ms. Shurney?

9 Q. Yes.

10 A. Other than the fact that everything was stated here,
11 I mean, there's --

12 MS. MALONE: I asked him his subjective belief.

13 Q. You were asked a question, and you said clearly
14 you'd file the same charges, yes, she's guilty of the
15 offense. What evidence, any evidence at all, do you have
16 that Ms. Shurney committed either of these two crimes?

17 MR. BAX: Again, same objections.

18 Q. You can answer the question.

19 A. I guess the fact that she arrived from Cleveland,
20 the room was reserved with a stolen credit card, Ms. Shurney
21 showed up, signed for the room for the services rendered, she
22 was benefitting from the services with the stolen credit
23 card, and like I said, I guess, given more time and more
24 experience in the interview and interrogation process, I'm
25 sure I could have got more evidence to lead to my conclusion

1 as to the charges that I filed.

2 Q. All right. Now, what experience -- investigative
3 techniques have you learned, and what would you have been
4 able to accomplish using those techniques regarding this
5 particular case?

6 A. As far as my believing the truth of Ms. Shurney.
7 Well, she shows up to the room with a stolen credit card with
8 a friend -- from a friend who just lets her use -- or
9 supposedly this Ms. Smith, who I can't identify, because if
10 you look up Tracey Smith or put Smith and Tracey in a
11 computer, it's going to generate thousands of license
12 numbers. Therefore, the time that it would take to -- or
13 even, I guess, narrow it down to a Tracey Smith, if she
14 exists, is impossible. And that goes to the out-of-state. I
15 can't identify a Tracey Smith for an out-of-state residence
16 without a date of birth. Ms. Tanielle Shurney is, I guess, I
17 don't want to -- it's just ironic that it's Tanielle Shurney
18 and her friend's name is Tracey Smith, who she knew the
19 address to, but she couldn't give me the phone number.

20 Q. Now, in the packet that we've been provided after
21 the Mirandising took place, there's basically one paragraph
22 that says, "On July 3, 2004, at 15:10 hours" --

23 MR. HUTTON: Can we go slower so the Trooper can
24 have that in front of him, when you ask him the
25 question. What page are you on?

1 MR. ADAMS: Page 3.

2 Q. Trooper, do you have Page 3 in front of you?

3 A. Yes.

4 Q. And it states, "On July 3, 2004, 15:10 hours, I
5 interviewed in person, at PSP Barracks, Tanielle Shurney,
6 black, B/N/F-32 years," et cetera. "Shurney related to me
7 that she did not have the credit card on her, and that the
8 reservations were made through a friend, Tracey Smith of 2117
9 East 74th Street, Cleveland, Ohio 44106. Shurney then
10 related to me that she did not attempt to call to confirm the
11 reservations for the room and that she just showed up on July
12 3rd at the Econo Lodge under the assumption that everything
13 was taken care of." Is that basically the sum total of the
14 conversation you had with Ms. Shurney after she was
15 Mirandised?

16 A. Yes.

17 Q. Is there anything else that you failed to put in
18 your report that was subject of that conversation between
19 yourself and Ms. Shurney?

20 A. Not that I recall.

21 Q. And you seemed to indicate that there are thousands
22 of Tracey Smiths that live in Cleveland, Ohio.

23 MR. HUTTON: Objection to the form.

24 Q. You can answer that question.

25 A. I don't understand.

1 Q. Did you check some sort of database to learn that
2 there are thousands of Tracey Smiths that live in Cleveland,
3 Ohio?

4 MR. HUTTON: Objection to form.

5 A. No. You can't run Smith out-of-state without a date
6 of birth. They won't give you any information. I need a
7 date of birth.

8 Q. And so, because you didn't have a date of birth, you
9 were unable to further your investigation as to the
10 whereabouts of Tracey Smith?

11 A. Correct.

12 Q. Did you learn from the Econo Lodge people that
13 Tracey Smith was on the phone with them prior to you
14 arresting Ms. Shurney?

15 A. No.

16 MR. ADAMS: I have nothing further.

17 MR. BAX: I have no further questions.

18

19 RECROSS-EXAMINATION

20 BY MR. HUTTON:

21

22 Q. Trooper, I just want to clarify. This report here
23 that you just read after Ms. Shurney was Mirandised, she
24 actually told you that the reservations were made through a
25 friend? That she denied making the reservations to you, that

1 these reservations were made through a friend?

2 A. She said that Tracey Smith made a reservation.

3 Q. Did Ms. Shurney then go on to tell you that she did
4 not attempt to call to confirm the reservations for the room?
5 Did she tell you she made no attempt to confirm the
6 reservations?

7 A. I don't know.

8 Q. You don't know if any of that's true, whether or not
9 Shurney made the reservation and Shurney confirmed the
10 reservations; is that correct? From what she told you --

11 A. She confirmed the reservations, but not by what she
12 told me, no.

13 Q. So that information appears to be inconsistent from
14 what you have learned? What she told you after being
15 Mirandised --

16 A. Um-hum.

17 Q. -- is different from what actually occurred?
18 Shurney had made a reservation, and Shurney had called to
19 confirm it?

20 A. Correct.

21 MR. ADAMS: Objection. Assumes facts.

22 MS. MALONE: Anybody else?

23 MR. ADAMS: No. Thank you, Trooper.

24 MS. MALONE: We'll waive signature.

25

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(Deposition concluded at 10:54 a.m.)

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16	7:00	Affidavit	Associated
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16502	8:00	Affix	Assumed
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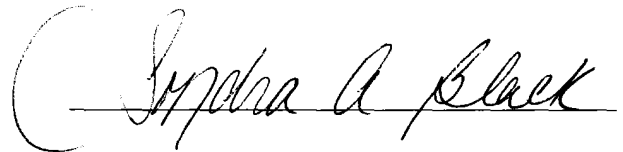
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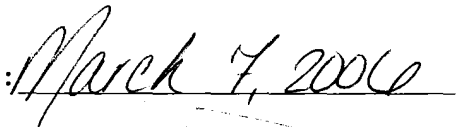
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C E R T I F I C A T I O N

I, Sondra A. Black, a Court Reporter and Notary
Public in and for the Commonwealth of Pennsylvania, do
hereby certify that the foregoing is a true and accurate
transcript of my stenographic notes in the
above-captioned matter.

A handwritten signature in cursive script that reads "Sondra A. Black". The signature is written over a horizontal line.

Dated: A handwritten date "March 7, 2006" in cursive script, written over a horizontal line. Below the date, there is a faint, illegible stamp.